IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9659 of 2005

Between:

Atluri Venkata Subba Raju, S/o.Chinna Rame Bhadri Raju,
R/o.D.No.17-27-70, Society Building,
Bhimavaram, West Godavari District.

..... PETITIONER

AND

The Mandal Revenue officer, Mandavalli, Krishna District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings of the Form No.1 under Rule 3 of A.P. Assigned Lands of Prohibition of Transfers Act dated 28-03-2005 as illegal, arbitrary and without jurisdiction and consequently set aside the same.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondent: GP FOR REVENUE

This Court at the admission stage made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.9659 OF 2005

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ORDER :

This writ petition is filed seeking a declaration that the notice issued by the respondent – Mandal Revenue Officer, Mandavalli, Krishna District, in Form No.I under Rule 3 of the Andhra Pradesh Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act') dated 28-3-2005 is arbitrary, illegal and without jurisdiction.

Petitioner states that he is the owner and possessor of an extent of Ac.59.18 cents of land situated in different survey numbers which was converted as fish tank about 7 to 8 years back. While so, the impugned notice dated 28-3-2005 was served on the petitioner under Rule 3 of the Rules made under the Act alleging that the petitioner was found to have the assigned land specified in the schedule therein in contravention of the provisions of sub-Section (2) of Section 3 of the Act and therefore calling upon the petitioner to show-cause within 15 days of the notice as to why he should not be summarily evicted from the lands.

Petitioner states that he has already submitted an explanation to the said notice on 5-4-2005 stating that he has not purchased nor in possession of any land in the three survey numbers mentioned in the show-cause notice and therefore the allegation is absolutely false and without any basis.

Thereafter, no final orders have been passed by the respondent as on today. However, this writ petition is filed contending *inter alia* that since the petitioner is neither a purchaser of the assigned land nor possessor of the assigned land, the provisions of the Act do not attract to the case on hand and consequently the impugned notice issued under Rule 3 of the Rules made under the Act is without jurisdiction.

I am unable to agree with the said contention raised by the petitioner. Whether the petitioner is in possession of the lands specified in the impugned show-cause notice and whether the said lands are assigned lands and whether the possession of the petitioner is in contravention of the provisions of the Act are all the questions which require to be decided by the respondent after conducting the necessary enquiry as contemplated under the provisions of the Act.

It is not in dispute that the impugned show-cause notice was issued in terms of Section 4 of the Act in Form-I as prescribed under the Rules. Even assuming that the said notice is vague and lacking in material particulars or that the lands specified therein are not in occupation of the petitioner, it cannot be said that the respondent lacks jurisdiction to initiate the proceedings under the Act. As expressed above, it is a mater for enquiry by the respondent, who is the competent authority under the Act and to record a finding on appreciation of the material on record as well as the explanation offered by the petitioner. It is also relevant to note that the petitioner has not challenged the validity of the rule under which the impugned notice was issued. Hence, I do not find any force in the contention of the petitioner and the interference of this Court at this stage is not at all warranted.

However, the leaned Counsel for the petitioner further submits that in pursuance of

the show-cause notice, the respondent is proposing to conduct survey of the lands in possession of the petitioner, and since the lands were converted as fish tanks long back, such survey is not possible and therefore the respondent may be directed not to conduct survey. It is always open to the petitioner to make such request before the respondent, in which event, the same will be considered in accordance with law.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of with a direction to the respondent to consider the explanation submitted by the petitioner dated 5-4-2005 and to pass appropriate orders in accordance with law. Till such orders are passed and the same is communicated to the petitioner, the respondent is directed not to interfere with the possession of the petitioner in respect of the lands in question in any manner. No costs.

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27th April, 2005.

ghn

To

1 The Mandal Revenue officer, Mandavalli, Krishna District.

2 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad. (O.U.T.)

3 Two CD copies.